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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,325	05/04/2006	Roberto Conti	023349-00318	6644
4372	7590	09/30/2008	EXAMINER	
ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			TAWFIK, SAMEH	
			ART UNIT	PAPER NUMBER
			3721	
			NOTIFICATION DATE	DELIVERY MODE
			09/30/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com

IPMatters@arentfox.com

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### Office Action Summary

**Application No.**

10/578,325

**Applicant(s)**

CONTI, ROBERTO

**Examiner**

Sameh H. Tawfik

**Art Unit**

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, lines 17 and 19; "the web" is vague and indefinite as it is not clear which web applicant is referring to; is it the first or second web?; etc.

Claim 10 recites the limitation "the pushing action" in lines 3 and 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the cam means" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Mahaffy et al. (U.S. Patent No. 4,034,536).

Mahaffy disclose an apparatus for making pods comprising revolving drum (Figs. 4 and 9; via drum 62); a line for feeding a first web to the drum (Fig. 4; via web roll 80); actuating

means for moving the first web against the pockets on the drum (Figs. 4 and 13 via vacuum means on the drum along with clamp fingers 100); a second line for feeding a second web (Fig. 4; via web roll 34); the actuating means are mobile along a circular path with the drum (Figs. 4 and 9; via the vacuum means and fingers 100 mobile with drum 62); the actuating means comprises for each and every pocket on the drum (Figs. 4 and 9; via fingers 100 for each pocket); forming head moving toward and away from the pocket (Figs. 11-13; via die clamp 96 and springs 102); suction means acting on the web (Fig. 4; via vacuum turret).

Regarding claims 2, 3, and 12: reciprocating pusher means pressing on the head (Figs. 12, 18, and 24; via 210 is pushing up the formed container as a result head 96 is pushed toward die 84); while the suction is holding the first web within the pocket (Fig. 4).

Regarding claims 4, 6, and 7: the forming head (Fig. 13; via 96) comprises a rigid pressing element (via 100 and 102) whose shape match the shape of the pocket, see for example (Fig. 4); the head is associated with a stabilizing plate (Fig. 13; via plate holding fingers 100 and 94).

Regarding claims 5 and 13: wherein the forming head (via 96) includes a rigid frame like plate (via 94); and a member of flexible material (via springs 102); stabilizing plate (via plate holding fingers 100).

Regarding claim 8: first and second cam drive means acting on the head, see for example (Figs. 9, 11, 12, and 16-18).

Regarding claims 9 and 10: compensating means positioned and acting at each forming head (Figs. 4 and 9; via edges of the pockets, and element 78); the compensating means comprise a pair of pins (via pins of elements 78).

Regarding claim 11: the second feed line of second web supports doses of product, see for example (Fig. 4; via doses/product 59).

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470. The examiner can normally be reached on Tuesday - Friday from 9:00 AM to 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sameh H. Tawfik/  
Primary Examiner, Art Unit 3721